

IPSWICH PLANNING BOARD MEETING MINUTES

Thursday, September 22, 2016, 7:30 p.m.

Pursuant to a meeting notice posted by the Town Clerk and delivered to all Board members, a meeting of the Ipswich Planning Board was held on Thursday, September 22, 2016 in Room A, 2nd floor of Town Hall. Board members Heidi Paek, Keith Anderson, Jim McCambridge and Kathleen Milano were present. Jay Stanbury and Associate Member, Carolyn Britt, were absent. Senior Planner, Ethan Parsons, also attended.

Paek convened the meeting at 7:30 with a quorum present.

Announcements: Paek stated that Jay Stanbury is not here tonight. He will use the Mullin Rule so he can vote on new matters. Paek also stated that the 135 Topsfield Road item was labeled as a continued public hearing on the agenda but it is a new public hearing and was noted as such in the legal ad and abutter notifications.

Citizens' Queries:

None

Adopt Minutes of July 21, 2016 meeting

Anderson moved to approve the minutes as shown, Milano seconded. The motion passed unanimously.

Documents: Draft minutes of July 21, 2016 meeting

Consider endorsing Approval Not Required Plan for 31 Greens Point Road: Larry Graham of H.L. Graham Associates appeared before the Board to explain that the proposed lots complied to the greatest extent possible though were not fully compliant, which is permitted as an ANR plan because the nonconforming buildings on the lot existed prior to the adoption of subdivision control.

Anderson moved to approve the ANR. Milano seconded. The motion passed unanimously.

Documents:

- 31 Greens Point Division Plan, prepared by Donohoe Survey, Inc., 9/15/16 (2 sheets)

New Public Hearing: Request by HTA Realty Inc./Edward J. Sutherby for a special permit for the proposed conversion of an accessory structure into a dwelling unit at 288 High Street (Assessor's Map 20A, Lot 11), which is located in the RRA and Water Supply Protection Districts, pursuant to Section IX.P and XI.J, of the Zoning Bylaw.

Paek read the legal notice to open the public hearing. Larry Graham, H.L. Graham Associates, appeared before the Board. Graham explained the site and the proposed changes to the accessory structure. This property is also in the Water Supply Protection District. The regulations are not applicable with this project. Revisions were made on 9/15 and submitted to the Planning Board to make sure the proposed volume increase did not exceed the 15% maximum. Paek noted that while the Board normally wouldn't permit tandem spaces it could in this instance because the minimum required spaces comply, and the tandem space is over and above the requirement. She said the Board will need lighting specifications.

Paek asked about the existing garage and why it can't be reused. Graham explained it is in incredibly poor condition. The front part is built on a minimal slab and there is no good foundation. There are sags in the roof line and the building is not salvageable. Paek also explained that a public benefit will be required and has not been addressed yet. Anderson asked about the water service. Graham confirmed the applicant plans to maintain the well for irrigation but it will not be connected to either of the structures. A site visit was scheduled for Sunday, October 2nd at 4PM. Paek asked for light specs, a statement of public benefit from the applicant and a motion to continue the public hearing.

Milano moved to continue the public hearing. Anderson seconded. The motion passed unanimously.

Documents:

- 288 High Street Special Permit application, 8/25/16
- Permit Plan, prepared by H.L. Graham Associates, 8/29/16
- Architectural Plans, prepared by Martha Macinnis, 9/15/16 (3 sheets)

New Public Hearing: Request by Brian Burkey and Mariana Ovnice for a modification to a special permit granted March 8, 2012 for the proposed conversion of an accessory structure into a dwelling unit at 12 Woods Lane (Assessor's Map 42A, Lot 18), which is located in the Intown Residence District, pursuant to Section IX.P and XI.J, of the Zoning Bylaw.

Paek read the legal notice to open the hearing. Paek explained a special permit was approved in 2012 to permit the conversion of the barn to a dwelling unit and new owners, the applicants, are appearing before the Board to discuss proposed modifications to the 2012 special permit. Brian Burkey and Mariana Ovnice, applicants, David Pill, architect, and Larry Graham of H.L. Graham Associates, appeared before the Board. Burkey explained what had happened at the property since he purchased it. 'He sees this barn as a place for family and a place they want to have for when they are older and require one level living. They are passionate about having an energy efficient home. The existing foundation is poured concrete and is from the early 1900's. The goals for the project are to strengthen the structure, make it energy efficient and preserve the historic integrity. They will include cisterns to collect rain water. Graham explained the site plans in detail. Paek scheduled a site visit for October 2nd at 4:30 and requested a memo of the changes that were not part of the original plan. Anderson asked if the building would need sprinklers and it was confirmed that it would. Anderson also asked about the shed on the property. Graham said it conforms to setbacks and is ok and it is not part of the purview of the Board. Paek explained they would be waiting for the historic commission to weigh in, and a memo from applicant on what is different from the previously approved plan.

Milano moved that this is a major modification. McCambridge seconded. The motion passed unanimously.

Elaine Lee, 10 Woods Lane: Stated that Brian and Mariana are tasteful and lovely and they will make lovely renovations to the barn.

Milano moved to continue the public hearing. McCambridge seconded. The motion passed unanimously.

Documents:

- Permit Plan, prepared by H.L. Graham Associates, Inc., 8/29/16
- Architectural Plans, prepared by David Pill, Maharani Associates Architects, 5/29/16, rev. 8/24/16 (12 sheets)
- Special Permit Application filed with Town Clerk 8/29/16

New Public Hearing: Request by Ipswich Pharmaceutical Associates, Inc. for a special permit for a Registered Marijuana Dispensary and alternative to loading zone requirements at 31 Turnpike Road (Assessor's Map 38C, Lot 7), which is located in the Limited Industrial District, pursuant to but not necessarily limited to Sections V, VI, VII, IX.R, and XI.J, of the Zoning Bylaw.

Paek read the legal notice to open the hearing. Paek explained the special permit process to the applicant and the audience. Matthew Cummings and Jeff Moore, Cummings Architects, and Joseph McCarthy 53 Town Farm Road, president of Ipswich Pharmaceutical Associates (IPA) attended. Cummings explained the site plan. The Fire Chief asked for two gates on the property and these will be installed. There is a gravel driveway in the back of the site off Old Right Road. The Fire Chief asked for it to be widened approximately eight feet. Visually there are few changes proposed. The hours of operation would be from approximately 10AM-7PM Monday thru Saturday. Valario Romano said they didn't want to limit themselves to these hours. It was explained they would like to start off with 10-7 six days a week. There will be seven employees. Moore explained there would be around 40 visitors a day as a rough estimate. It is tough to know how many people will visit in a day, there is roughly 200 applications in with the state in the moment so this is an estimate. Moore explained they would not have any large trucks delivering anything so they would like the Board to waive the loading zone requirement. They noted the screening requirement is already met. The Board would have a better view at a site visit. Paek noted that there is no proposed change to the landscape.

Doug Smith, 5 Hickory Lane: Stated the traffic impacts were not clearly defined. If other dispensaries are already open they should be able to get better estimates. Would a traffic impact study be a requirement from the Board? Paek told the applicant that they would need to provide data.

Nick Jacobellis, 9 Hickory Lane: Stated that he cares about the health and safety of children in the neighborhood. How can IPA guarantee one of their customers is not going to be high in the property and turn out onto the road and hurt someone. He is very concerned for safety and is against this proposal as are other neighbors. They do not feel it is a good permit or a good place to put this. He has spoken to neighbors and many never got the notice of the public hearing. Paek wanted to remind everyone that they have a bylaw in town about dispensaries. She also noted that the purpose of this bylaw is to allow these under strict conditions. He asked if the bylaw says where they go. Paek explained Town Meeting voted to allow them in the limited industrial and planned commercial districts.

Walter Harmey stated he owns the building next door but is a resident of Topsfield. He said one cannot see the entrance of 31 Turnpike until they are almost at it. In the back it is state forest and presently there is much more traffic than in the past.

Meghan Malone-Moses, 10 Hickory Lane: Wanted to reiterate what neighbors have said. Her concerns are safety and they have a well-established neighborhood. She recognizes the town made a decision to consider planned commercial but this neighborhood has major concerns about this location. She does not see any risks outweighing the benefits. The property values will not increase with this location being across the street from them.

Valario Romano realizes this is a polarizing issue. Massachusetts is far more regulated than Colorado and other legalized states. A doctor has to review everything. This district passed at Town Meeting with the 2/3 vote. Paek asked if there are reports of accidents for patients leaving RMDs? It was confirmed that there has been only one accident because of operating under the influence of marijuana reported from

Police Chiefs in other towns. Paek asked Parsons to ask Chief Nikas to weigh in. There will be gates, cameras and a security guard. Cummings felt some of the details could be ironed out during the process, the site visit could happen first and that could alter plans.

Nick Jacobellis, 9 Hickory Lane: Doesn't think this is right that not all the neighbors knew about this. He does not feel the Board sent out enough notices. Paek explained how abutters are notified and the radius required under the Zoning laws.

Doug Smith, 5 Hickory Lane: Security was mentioned. What is to prevent the customer from leaving that area and going to Hickory lane and using the product? That is the concern of the neighborhood.

Valario Romano explained there are already laws governing the use of marijuana, including laws against operating vehicles under its influence.

Paek scheduled a site visit for Saturday October 1st at 9AM. McCambridge asked if it was required under MA law that IPA disassociate themselves with a patient that violates the rules. It was confirmed it was not, this was a personal business decision to do this. Milano asked if a security guard will be on site. It was confirmed it was not classified as a guard because they were not armed but security would be on site and yes they will always be there. Paek asked for a motion to continue the hearing.

Milano moved to continue the public hearing. McCambridge seconded. The motion passed unanimously.

Documents:

- Cover Letter, Special Permit application, Responses to Zoning Bylaw Section IX.R, Special Permit Waiver Request, Commercial Lease Agreement, Statement/Oath of Management/Ownership Team, Letter of Authorization from property owner, and Property Photo Sheets, all dated 8/29/16
- Provisional Certificate of Registration for a Registered Marijuana Dispensary, 8/12/16
- Site Plan, Sheet 1, prepared by Cummings Architects, 8/29/16
- Architectural Plans (Sheet A1, First Floor; Sheet A2, Elevations), prepared by Cummings Architects, 9/8/16
- Memo from Gregory Gagnon, Fire Chief, 9/19/16

New Public Hearing: Request by Angelo Ciardiello for a special permit and site plan approval for a 4-unit residential and 1 commercial unit development at 62 Central Street (Assessor's Map 42A, Lot 247), which is located in the General Business District, pursuant to but not necessarily limited to Sections V, VI.B and Footnote 11, X and XI.J, of the Zoning Bylaw.

Paek read the legal notice to open the hearing. Angelo Ciardiello, applicant, and Richard Griffin, architect, appeared before the Board. They have filed both a special permit application and a site plan review application. The building will be on the same footprint as the building destroyed by fire. The first floor will be a commercial use, and Ciardiello is thinking of leasing to a bakery. The second and third floors will be a total of four, two bedroom residential units. Griffin explained the previous building and the plans for the new building. Paek clarified that three units would be allowed by the current bylaw. The fourth unit has to be approved by special permit subject to Footnote 11. She asked what would be the community benefit as required under Footnote 11. Ciardiello proposes to pay an additional \$10,000 to the Affordable Housing Trust. Paek noted they are also looking to provide outdoor seating and this was confirmed. Griffin explained they are providing eight parking spaces behind the building. Anderson asked about the height of the building and it was confirmed to be similar the building next door.

Ben Malarkey, 58 Central Street: Asked where bakery customers would park and where trucks would make bakery deliveries. On a busy day would they end up taking the parking spots for their building? Due to the previous fire he is concerned about another fire, and he asked if a firewall would be installed. He asked how snow would be managed. Ciardiello said with large snow events snow would be removed from the site. The parking spaces would always be available. Paek explained the fire wall is building code requirement and not something the Board can address. Paek also explained the commercial component is exempt from parking requirements because of its proximity to the Wildes Court lot. Paek explained that parking would require some thought, but that because this was a nonconforming building that burned down it may remain nonconforming.

Annie Kemp, 54 Central Street: Reiterated the importance of parking on site. She said that when the previous building was there her driveway was often blocked by people going to businesses in the area. She would also like to see a sign to notify people to not park on her property or block her access.

Paek scheduled a site visit for Saturday, October 1st at 8:30AM. Parsons informed the Board that the Design Review Board is meeting again October 4th and he anticipates they will issue a recommendation on this project at that meeting. It was noted that the Board usually asks the Affordable Housing boards for a recommendation on projects having an affordable housing component and the Planning Board often looks to them for perspective. Griffin mentioned this building would be fully sprinkled. Hearing no further comments, Paek asked for a motion to continue the hearing.

Anderson moved to continue the public hearing. Milano seconded. The motion passed unanimously.

Documents:

- *Architectural Plans, prepared by Richard W. Griffin, Architect, 8/11/16 (Sheets TTL-1, A1, A2, A3)*
- *Site Plan, prepared by Williams and Sparages, 7/27/16*
- *Project Narrative, prepared by Richard W. Griffin, 8/19/16*
- *Special Permit Application, 8/11/16*

New Public Hearing: Request by Ken Swenson for Scenic Road approval for the removal of two trees within the right of way at 449 Linebrook Road (Assessor's Map 37C, Lot 7A).

Paek read the legal notice to open the hearing. Ken Swenson, owner of 449 Linebrook Road, appeared before the Board. The two pine trees he would like remove existed when he bought the property and they are getting dangerous in terms of impeding sight distances when leaving his driveway. The trees make it impossible to look down the road towards the east. Paek explained this is a scenic road and this gives the Board jurisdiction over the trees. The DPW's forestry staff person has weighed in on this, and noted the largest pine is a risk and mitigation is removal. Milano said she went to the property and found it difficult and dangerous to get out of the driveway. Milano and McCambridge discussed whether a sight distance analysis of the area would be warranted and reveal whether removing the trees would resolve the problem. Anderson commented that it is obvious that if the trees are removed the site view would be improved. Anderson wondered if taking down one of the trees might solve the problem. Swenson worried that once the other tree was removed the other would grow larger and cause the same problem in a few years. Parsons explained that DPW staff, John Feener, submitted photographs of the area. He recommended some of the juvenile pine trees be removed to stop future problems. He doesn't want to ask the Board to pre judge anything, but he is encouraging the Board to think about how to enhance the frontage and canopy long term. Paek cares about the applicant's safety but is also reluctant to take down a

huge healthy tree. Paek said because these are such healthy trees she would like to have the DPW put the signs on the trees so the public can know they are slated for possible removal, in accordance with the bylaw procedural requirements. Milano asked about the lifespan on pine trees. Parsons said DPW Director Rick Clarke wrote that the tree closest to the driveway is a mid-level risk. Paek would like to have a better understanding of how the site line would be improved if the trees were removed. Anderson said it appears obvious that if the trees are removed the site line would be increased dramatically. McCambridge asked if the applicant can't see cars coming or if the cars can't see him. Swenson said it goes both ways. Paek and McCambridge were hesitant and wanted more research before voting at the next meeting. Paek entertained a motion to continue the hearing. She encouraged Board members to inspect the site again.

Milano moved to continue the public hearing. Anderson seconded. The motion passed unanimously.

Documents: 449 Linebrook Scenic Road application, 8/25/16

New Public Hearing: Request by Craig Bergeron to modify a special permit granted July 21, 2016 for the proposed conversion of an accessory structure into a dwelling unit at 135 Topsfield Road (Assessor's Map 53A, Lot 4), located in the RRA District, pursuant to Section IX.P and XI.J, of the Zoning Bylaw.

Paek read the public notice to open the hearing. Craig Bergeron, owner, stated that he had second thoughts about the affordable housing restriction aspect of his approval. He had misunderstood the requirements and thought he had time to file the restrictions later and it turned out he did not. Paek explained the payment in lieu proposed is \$10,000. Paek suggested that the Board allow the modification of the decision as requested. Parsons said the applicant should file the original decision as well as the modification. Parsons said that the payment in lieu is usually paid before the issuance of the certificate of occupancy. The Board agreed to both points. Hearing no further comments, Paek asked for a motion to close the hearing.

Milano moved to close the public hearing. McCambridge seconded. The motion passed unanimously.

Milano moved this is a major modification. McCambridge seconded. The motion passed unanimously.

McCambridge moved to approve the major modification as discussed. Milano seconded. The motion passed unanimously.

Documents: Letter from Craig Bergeron to E. Parsons, 8/25/16

Request for Minor Modification by Holloran Companies LLC to 4/14/16 Special Permit and Site Plan Approval for 30 South Main Street

Parsons explained that the developer needs the building permit in hand in order to purchase the building. The Building Inspector will not issue the permit because the Board's decision required the historic restriction to be recorded prior to issuing the permit. Were the Board to amend their decision, the Inspector would issue the permit, thereby allowing the purchase. The restriction could be recorded after the closing but prior to construction. The decision could say "prior to the start of construction" instead of

“prior to the issuance of the building permit”. Paek asked if there was a motion to find this is a minor modification.

Anderson moved this is a minor modification. Milano seconded. The motion passed unanimously.

Anderson moved to approve the minor modification. McCambridge seconded. The motion passed unanimously.

Discuss and Issue Report to Town Meeting on Zoning Changes:

Parsons explained the draft report and why it was required. Paek submitted some edits on this document. Parsons read the document. Anderson noted date corrections in the first paragraph. Paek discussed her changes to portions of the report. Milano said she still has reservations on the infill part of this article, mostly because of District A and the density. She feels this neighborhood is being overburdened and if this article passes it will make matters worse. She said the rest of the article is good. Paek said she does not agree with Milano because it would only generate approximately five more houses over time in that neighborhood, which actually is less dense than district B. The security is this is a special permit process.

Anderson moved to accept the Town Meeting Report as discussed and modified. Milano seconded. The motion passed unanimously.

Documents: 2016 Special Town Meeting Planning Board Report Draft, prepared 9/19/16

New Business

Paek and Parsons discussed modifying the special permit Rules and Regulations. Parsons is working on a draft, which will be the subject of a public hearing on the next agenda. The proposed changes will address the timeline for decisions and some other things.

October 3rd at 6:00 the Board will be meeting to discuss the Town Meeting zoning presentations.

Adjournment: *McCambridge moved to adjourn the meeting at 10:27. Anderson seconded. The motion passed unanimously.*

Respectfully submitted by Jennifer Dionne

The Board approved these minutes on November 10, 2016